UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In re:	.	Brooklyn, New York
	.	November 4, 2015
NANCY ROJAS-TORRES,	.	
	.	15-40265
Debtor.	.	Calendar Time:
. . . .	.	3:30 P.M.

[5] ORDER SCHEDULING STATUS CONFERENCE FOR THE PURPOSE OF DETERMINING AN APPROPRIATE SCHEDULE FOR THE PROPER ADMINISTRATION OF THIS CASE

CONFIRMATION HEARING

BEFORE HONORABLE CARLA E. CRAIG

Attorney for Debtor:	JULIO E. PORTILLA, ESQ. 111 Broadway Suite 706 New York, New York 10006
Attorney for Empire Assets Growth, Secured Creditor:	CARLEBACH LAW GROUP 55 Broadway Suite 1902 New York, New York 10006 BY: DAVID CARLEBACH, ESQ.
Attorney for U.S. Trustee:	U.S. DEPARTMENT OF JUSTICE OFFICE OF UNITED STATES TRUSTEE U.S. Federal Office Building 201 Varick Street Suite 1006 New York, New York 10014 BY: WILLIAM CURTIN, ESQ. RACHEL WEINBERGER, ESQ.

Attorney for AAPP, LLC,
Interested Party: SILVERBERG, P.C.
320 Carleton Avenue
Suite 6400
Central Islip, New York 11722
BY: KARL J. SILVERBERG, ESQ.
(Via Telephone)

Court Recorder Operator: JULIET R. LECKY

Court Transcriber: CATHERINE ALDRICH
COMPU-SCRIBE, INC.
2376 Cleveland Street
Bellmore, New York 11710

Proceedings recorded by electronic sound recording, transcript produced by transcription service.

THE CLERK: Number 33 and 34, Nancy Rojas-Torres.

Appearances, please.

MR. PORTILLA: Julio Portilla for the debtor, Nancy Rojas.

MR. CARLEBACH: David Carlebach, representing Empire Assets Growth, a secured creditor.

MR. CURTIN: William Curtin and Rachel Weinberger for the United States Trustee.

THE CLERK: Party on the phone.

MR. SILVERBERG: Karl Silverberg here for AAPP, LLC.

THE COURT: Okay. So you haven't filed an amended plan, Mr. Portilla.

MR. PORTILLA: Yes, your Honor. You know, pursuant to the status letter, which was filed today by AAPP's counsel, we have been negotiating, and we're finalizing an agreement between the debtor --

THE COURT: This is the same deal you were talking about 30 days ago, correct?

MR. PORTILLA: The same deal, your Honor. The deal is contingent on them getting accurate payoff and also getting an accurate rent roll.

THE COURT: Okay. Is there -- isn't there a proof of claim on file? Is there a proof of claim on file?

MR. CARLEBACH: There is, your Honor.

THE COURT: So wouldn't you just add per diem interest to that and you've got -- there's a foreclosure judgment, correct? Is there or not?

MR. PORTILLA: No. There was no judgment.

MR. CARLEBACH: There's no foreclosure judgment.

THE COURT: Does the proof of claim indicate the per diem interest? I'm just saying can't you figure out the amount that's owed from the proof of claim?

MR. PORTILLA: The bank wants an official payoff letter.

MR. CARLEBACH: We gave them an official payout at the last go-round. We can -- it's just a question of updating it with some per -- they know what the per diem interest is. Per diem interest, maybe some attorney's fees, but you know, we keep hearing reasons why the debtor hasn't been able to do -- there was no -- I didn't get an e-mail saying, "I can't do what I need to do if you don't give me X, Y, or Z." There was no application made to this Court to extend the time to file the plan.

I mean I believe that the Court should hold the debtor to the December 1 confirmation.

THE COURT: As far as I'm concerned we're going forward on December 1.

MR. CARLEBACH: Right, and let the debtor make whatever application it needs to make to this Court to tee up its -- whatever it's going to do for December 1, but I just think --

THE COURT: Can you provide a payoff? When can you provide an updated payoff letter?

MR. CARLEBACH: We can have it to them --

THE COURT: Well, let's look at the old payoff letter because it has -- does it have a per diem?

MR. CARLEBACH: I'm going to have to take a look at it, your Honor. Yes. My client tells me that it does.

THE COURT: Well, let's have a look at it and confirm that.

(Pause in proceedings)

MR. CARLEBACH: I would just point out that our proof of claim, which was Exhibit A to our -- actually Exhibit A to their objection to our plan, has the interest rate right on the page. They attach our proof of claim. It's got an annual interest rate of 11.3 fixed interest rate.

THE COURT: That doesn't really tell you the per diem though, does it?

MR. CARLEBACH: Okay. Here's the payoff letter, which is their Exhibit B. Per diem of $185.12 in accrued, add per diem. It's all right in there. It's Exhibit B to their objection.

THE COURT: Okay. So you've got that, and then I guess any attorney's fees that have accrued.

MR. CARLEBACH: I'm sure there have been some attorney's fees that have accrued, but again we're not --

THE COURT: Well, your fees right here for being in this courtroom presumably are part of that, right?

MR. CARLEBACH: Exactly. That's part of -- that's included in every mortgage, the mortgagee's -- creditor's attorney's fees.

THE COURT: Right. So they would need to know that amount.

MR. CARLEBACH: We can give that to them, Judge.

THE COURT: Okay. You want a payoff as of what date?

MR. PORTILLA: As of November 2015.

THE COURT: Sorry?

MR. PORTILLA: As of November 4th, 2015.

THE COURT: November. As of today's date?

MR. PORTILLA: As of today.

THE COURT: Okay. So can you give him a payoff by Friday?

MR. CARLEBACH: We can, your Honor.

THE COURT: Okay. And other than that I think we're going to go ahead on the 1st of December, and I'm not changing -- none of the dates set forth in my letter -- in my order are changing, so you're going to be -- better be prepared to come here and try your case on December 1st.

MR. PORTILLA: Understood, your Honor.

THE COURT: Okay. So I'll just adjourn this whole thing to December 1.

MR. CURTIN: Your Honor, I know I bring this up at every conference, but we still have the issue of the operating reports that still haven't been filed. Those were supposed to be filed. I know there's allegedly an issue with the receiver, but if we can get a status update on what's going on with that.

MR. PORTILLA: I think there were some filed maybe about an hour or two ago.

MR. CURTIN: Okay. Well, I've been here, so I wouldn't have seen them.

MR. PORTILLA: I think the real -- this is a debtor who -- I represent enough debtors before this Court, and I'm on the hot seat usually for MOR's. It's the debtor's responsibility. I have often had to take receiver reports and recast them in a way that makes the Office of the UST happy --

THE COURT: Your point being what?

MR. PORTILLA: -- and the information is out there.

THE COURT: Your point being what?

MR. PORTILLA: My point being that I think that the question needs to be posed to debtor's counsel, "Why have no MOR's been filed in this case?"

MR. CURTIN: Are you saying --

MR. PORTILLA: Because we don't get the information.

It's just not -- this is a cooperative receiver. He's available. He's --

THE COURT: Doesn't he -- doesn't the receiver prepare monthly reports?

MR. PORTILLA: They're not -- I don't know if they're exactly monthly. Maybe he puts more than --

THE COURT: Okay. Well, Mr. Portilla, it's your job to do whatever you have to do to get the information you need to do that.

MR. PORTILLA: Right.

MR. CURTIN: And we'll look at them, your Honor. I wasn't aware that they were filed.

THE COURT: All right. So I'll see you on December 1.

MR. PORTILLA: Okay. Thank you.

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CERTIFICATION

I, Catherine Aldrich, certify that the foregoing is a correct transcript from the electronic sound recordings of the proceedings in the above-entitled matter.

January 25, 2016

Catherine Aldrich